

REMARKS/ARGUMENTS

Claims 1-17 are currently pending in this application, as amended. By the present amendment, claims 1, 2, 5, 6, 10 and 12-14 have been amended and new claim 17 has been added. Applicants submit that no new matter has been introduced into the application by these amendments.

CLAIM OBJECTIONS

In the Action, the claims were objected to due to minor informalities in claims 1 and 10. These have been corrected as noted above. Accordingly, withdrawal of the objections to the claims is respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. §112

Claims 1-16 were rejected under 35 U.S.C. §112, second paragraph, as indefinite. In response, the claims have been amended to address the rejections noted in the Action to ensure that the claims are clear and include proper antecedent basis for the claim elements being recited. With respect to claim 1, the first device has been more clearly defined as being located downstream of the light inlet and defining a beam path for guiding the light received by the light inlet upwards toward the receiving point. Additionally, proper antecedents have been provided for the light passage. Claim 2 has been corrected to positively recite the externally accessible upper surface area so that it is not in narrative form. With respect to claim 5, this has been clarified to indicate that at least one convergent lens is provided which bundles the light and which is coupled optically with at least one of the light guide for guiding the light toward the receiving point or the light guide for receiving the light coming from the reflector. It is believed that this is now definite and in compliance with Section 112. With respect to claim 6, this claim has been clarified to only refer to the optics which include the lens, and portions of the claim which were recited as optional have been removed from the

claim. New claim 17 has been added which depends from claim 4 and recites this alternate configuration using only the light guiding fiber bundles. As to claim 7, this has also been clarified. With respect to claim 10 "locked in rotation" was meant to indicate that the reflector was rotatably fixed and centered relative to the device so that it could not be rotated when it is installed. This has been clarified in the claim. With respect to claims 12 and 13, these claims have been amended to be in compliance with Section 112. With respect to claim 13, the first and second devices are now clearly being defined. As to the rejection with respect to claim 14, this claim has been amended to recite that the outer dimensions of a cross section of the device correspond to the dimensions of a standard cell, which would allow for interchangeability. Standard cells are known in the art for photometers, spectrophotometers, flurometers and spectroflurometers and this would be understood by a person of ordinary skill in this art.

Accordingly, withdrawal of the Section 112 rejections of the claims is respectfully requested.

DOUBLE PATENTING

The claims were rejected under the judicially created Doctrine of Non-Statutory Obviousness-Type Double Patenting in view of co-pending application no. 11/995,332. In response, Applicants have submitted a Terminal Disclaimer authorized by the owners to be signed by the attorney of record in this application in order to overcome this rejection.

CLAIM REJECTIONS – 35 U.S.C. §102

Claims 1-2, 10, 12 and 14-15, were rejected under 35 U.S.C. §102(b) as anticipated by U.S. 5,557,103 to Hughes et al. Claims 1, 3-7, 9-12 and 14-15, were rejected under 35 U.S.C. §102(b) as anticipated by U.S. 5,418,615 to Doyle. Claims 1,

3-4, 8-12 and 14-16, were rejected under 35 U.S.C. §102(e) as anticipated by U.S. 7,170,608 to Burge. Applicants respectfully traverse these rejections.

As amended, claim 1 is directed to a device for analysis or absorption measurement of a small quantity of a liquid medium using light, which is guided through the medium and then can be detected or analyzed photometrically, spectrophotometrically, fluorometrically, or spectrofluorometrically, wherein the device includes a receiving point area at a top thereof for depositing or applying the medium in drops, a light inlet oriented horizontally and located under the receiving point in the housing, and a first device located downstream of the light inlet and defining a beam path for guiding the light received by the light inlet upwards toward the receiving point opposite the beam path extending from the light inlet. The device has a reflector which is attached detachably above the receiving point. The reflector has a defined spacing from the receiving point which is filled or can be filled by the medium being analyzed, at least in an area aligned by the beam path of the first device. A second device is provided for guiding the light coming from the reflector toward a detector.

Hughes et al. is silent with respect to any detachability of the mirror (20). Column 6, lines 20-24 of Hughes et al. provide the only description of the ellipsoid mirror (20). The statement in the Action that the mirror is capable of being detached is wholly unsupported by the reference. Further, there is no suggestion or disclosure in Hughes et al. of a beam path for guiding the light received by the light inlet upward toward the receiving point, which in Hughes et al. would be defined by the cup (10). As is clearly shown in Figure 1 of Hughes et al., the light is reflected by the mirror (16) off the ellipsoid mirror (20) at the top of the device and down onto a surface of the material in the cup (10) being analyzed which then further reflects the light beam back up toward the ellipsoid mirror (20) prior to being collected via mirrors (22 and 24) and sent to a detector (26). Further, with respect to Hughes et al., this reference uses a wholly different measurement principle using diffuse reflection, basically at the surface of the medium in the cup (10), without showing, mentioning or suggesting any passing of the

light beam through the medium, which is required by the arrangement according to claim 1. Accordingly, claim 1 cannot be anticipated by Hughes et al.

Additionally, with respect to Doyle, the only reflector provided in this device is the fixed retro-reflector (92) located at one end of the device, which is likewise not capable of being detached as can be clearly seen from Figures 9 and 11. Further, the retro-reflector (92) is not attached detachably above the receiving point for the liquid which, in fact, would be the area shown as being left open above the gap between (132) and (134), nor is the retro-reflector (92) opposite to the beam path extending from the light inlet to the receiving point. To the extent that the claim specifically recites that the reflector is attached detachably above the receiving point opposite from the beam path extending from the light inlet, this configuration cannot be met by the Doyle device. Accordingly, claim 1 cannot be anticipated by Doyle.

As to Burge, this reference also fails to provide a reflector which is attached detachably above the receiving point opposite from the beam path extending from the light inlet, and there is no suggestion or disclosure of the present arrangement. Accordingly, claim 1 can also not be anticipated by Burge.

Additionally, with respect to Doyle and Burge, even if one were to follow the approach indicated in the Action with respect to the terms "horizontal" and "upwards" as being relative terms, the relation between "horizontal" and "upward" is, necessarily, a generally perpendicular relation which is neither present nor disclosed by Doyle or Burge.

As the remaining claims depend directly or indirectly from claim 1, these claims should be similarly patentable over Hughes et al., Doyle and Burge. Accordingly, withdrawal of the Section 102 rejections of claims 1-12 and 14-16 is respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. §103

Claim 13 was rejected under 35 U.S.C. §103 as obvious in view of Doyle. Claim 13 depends from claim 1 and should be patentable for the reasons noted above in connection with claim 1. Doyle fails to show or suggest the structure of claim 1. Accordingly, withdrawal of the Section 103 rejection of claim 13 is respectfully requested.

CONCLUSION

If the Examiner believes that any additional minor formal matters need to be addressed in order to place the present application in condition for allowance, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience, so that any such matters can be addressed.

In view of the foregoing Amendments and Remarks, Applicants respectfully submit that the present application, including claims 1-17 is in condition for allowance, and Notice to that effect is respectfully requested.

Respectfully submitted,

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